

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

DEVANTAE A. MOORE, #211724

PLAINTIFF

VERSUS

CIVIL ACTION NO. 2:18-cv-189-KS-MTP

ROBERT MORRIS, Investigator for  
Jasper County Sheriff's Department

DEFENDANT

ORDER

This matter is before the Court on Plaintiff's Motion [44] entitled "Motion to Dismiss Civil Action Without Prejudice" filed on March 8, 2021. Plaintiff states that he "has made a terrible mistake" and that he "jumped too far ahead" when he filed this civil action. Pl.'s Mot. [44] at 1. Plaintiff is requesting that this civil action be dismissed "without prejudice." *Id.* at 1-2. Having reviewed the Motion [44] as well as the record, the Court will liberally construe the Motion [44] as a Motion pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. *See Solsona v. Warden, F.C.I.*, 821 F.2d 1129, 1132 n. 1 (5th Cir. 1987) (finding that federal courts may construe and re-characterize a *pro se* prisoner action "according to the essence of the prisoner's claims, regardless of the label that the prisoner places on his complaint"); *see also Hernandez v. Thaler*, 630 F.3d 420, 427 n.27 (5th Cir. 2011) (noting that Court must consider the "substance of the relief, not a label" to determine the "true nature" of the pleading).

As evidenced by the Court's Memorandum Opinion and Order [14] entered July 15, 2019, the Court considered the Plaintiff's allegations and applied the relevant case law in resolving this matter. The Court's decision in the Memorandum Opinion [14] and Final Judgment [15] entered on July 15, 2019, dismissing Plaintiff's § 1983 claims with prejudice was the correct legal findings. The Court therefore determines that Plaintiff's Motion [44] does not meet any of the grounds

required by Federal Rule of Civil Procedure 60(b) to grant relief from the Final Judgment [15] or Memorandum Opinion and Order [14] dismissing Plaintiff's § 1983 claims with prejudice.

Accordingly, it is,

ORDERED AND ADJUDGED that Plaintiff's Motion [44] is construed as a Motion for Relief from a Judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff's Motion [44] is **denied**.

This the 18th day of March, 2021.

s/Keith Starrett  
UNITED STATES DISTRICT JUDGE